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PATENT
ATTORNEY'S DOCKET NO.: B0410/7269D1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard A. Gambale et al.
Serial No.: 09/774,319
Filed: January 31, 2001
For: VASCULAR INDUCING IMPLANTS
Examiner: Sharon E. Kennedy
Art Unit: 3763

T.H.
4-16-02
#6/
Election

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, Washington, DC 20231 on March 26, 2002.


John F. Perullo

Commissioner for Patents
Washington, DC 20231

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RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Sir:

This is in response to the restriction/election requirement dated February 26, 2002. Applicants provisionally elect, with traverse, the claims of Group I (claims 20-29) drawn to a method of promoting angiogenesis. Also, applicants provisionally elect, with traverse, Species 3 corresponding to FIGS. 4A-4D. All provisionally elected claims (20-29) read on the elected species.

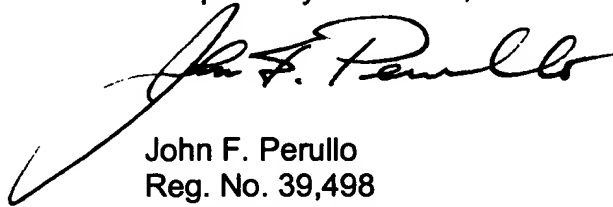
Reconsideration is requested of the restriction requirement concerning the claims of Group I (claims 20-29), Group II (claim 30) and Group III (claim 31). In the action, the claims of those groups were identified as being directed to unrelated inventions for the reason that they are not disclosed as capable of use together and have different modes of operation, functions or effects. However, the claimed subject matter of all identified groups can be used together and, indeed, is intended to be used together for the treatment of tissue, as described in the specification. Specifically, the claimed method of promoting angiogenesis comprises accessing ischemic tissue and

inserting an implant into the tissue. Claim 31 defines a method of delivering an implant into myocardial tissue, steps that further the method defined by claims 20-29. Claim 30 is drawn to a delivery device for placing an implant, which is purposeful in performing the methods defined by claims 20-29 and claim 31. Because of this inherent common purpose of the claimed subject matter, all claims should be examined together.

Reconsideration is also requested of the election of species requirement. The several identified species correspond to different implant and delivery system configurations, each of which involves delivery of an implant into tissue where it is oriented to place the tissue in stress in order to promote angiogenesis. The election of species requirement is particularly unnecessary in light of the provisional election made to method claims 20-29, which define a method that can be performed by any of the identified species.

For the foregoing reasons, the claims of Groups I, II and III and the several identified species should be examined together in the present application.

Respectfully submitted,



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Docket No.: B0410/7269D1
Date: March 26, 2002

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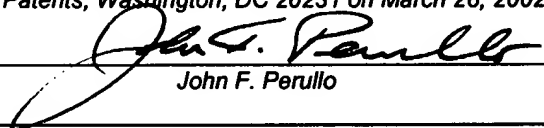
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on March 26, 2002.


John F. Perullo

COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

Sir:

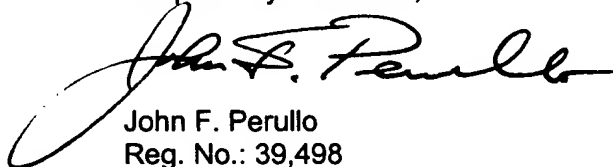
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☒ Response to Restriction/Election Requirement

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (617) 261-3100, Boston, Massachusetts.

A check in the amount of \$--- is enclosed to cover the filing fee. If the fee is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 50-1721. A duplicate of this sheet is enclosed.

Respectfully submitted,



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